

CITY OF SPOKANE HEARING EXAMINER

Re: Conditional Use Permit Application by) FINDINGS, CONCLUSIONS,
West Central Community Center to allow) AND DECISION
the construction of a garage on property)
located at 1603 N. Belt Street) FILE NO. Z16-085CUP3

SUMMARY OF PROPOSAL AND DECISION

Proposal: The West Central Community Center seeks a conditional use permit in order to permit the construction of a one-story garage, adjacent to an existing building, in a single-family residential zone.

Decision: Approved, with conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant/ West Central Community Center
Agent: Attn: Rick Harris
1603 N. Belt Street
Spokane, WA 99205

Owner: Same as Applicant.

Property Location: The address of the site is 1603 N. Belt Street, Spokane, Washington, 99205. The site is designated as Parcel No. 25125.0902. The property consists of all of Lots 1-4, Block 4, Pettet Tract Addition; Lots 13 & 14, Block 9, Muzzy's Addition; Lot 1, Block 5, Pettet Tract Addition; and Lot 15, Block 7, Muzzy's Addition.

Zoning: The property is zoned RSF (Residential Single Family).

Comprehensive Plan Map Designation: The property is designated as Institutional.

Site Description: The site is a developed property located at 1603 N. Belt Street, northwest of A.M. Cannon Park, and south of the Augusta/Belt Street intersection. The West Central Community Center is located on the parcel along with an existing parking lot.

Surrounding Conditions and Uses: The land to the north, south, east and west of the property is zoned Residential Single Family (RSF). There are single family residences in all directions, north, south, east and west, in the vicinity of the property. Directly to the north of the West Central Community Center, along Pettet, is an apartment building. Directly to the west of the site are single-family residences. A park is adjacent and to the south and southeasterly of the site.

Project Description: The West Central Community Center is proposing a 2,240 square foot, single-story garage addition to be placed adjacent to the east wall of the existing gym which is located at the north end of the site. The garage will be used for storing vehicles.

PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code ("SMC") 17C.110, Residential Zones; SMC 17C.320.080(F), Conditional Use Criteria, and SMC 17G.060.170, Decision Criteria.

Notice of Community Meeting: Mailed: January 14, 2016
Posted: January 14, 2016

Notice of Application/Public Hearing: Mailed: February 29, 2016
Posted: February 29, 2016

Community Meeting: January 28, 2016

Public Hearing Date: March 17, 2016

Site Visit: March 16, 2016

SEPA: This project is exempt from SEPA pursuant to SMC 17E.050.080.

Testimony:

Donna deBit, Assistant Planner
City of Spokane Planning & Development
808 West Spokane Falls Boulevard
Spokane, WA 99201

Rick Harris
West Central Community Center
1603 N. Belt Street
Spokane, WA 99205

Exhibits:

1. Planning Services Staff Reports
2. Application, including:
 - 2A General Application
 - 2B Conditional Use Permit Application
 - 2C Notification Map Application
 - 2D Overhead photo view of site
 - 2E Site Plan
3. Engineering Services comments
4. Spokane Tribe of Indians comments
 - 4A letter dated 02-18-16
 - 4B letter dated 02-29-16
5. Notice map
6. Parcel listing
7. Notice of Community Meeting
 - 7A dated for 01-12-16

- 7B dated for 01-28-16
- 8. Notice of Application and Public Hearing
- 9. Affidavit of mailings:
 - 9A dated 12-29-15
 - 9B dated 01-14-16
 - 9C dated 02-29-16
- 10. Affidavit of posting:
 - 10A dated 12-29-15
 - 10B dated 01-14-16
 - 10C dated 02-29-16
- 11. Affidavit of sign removal dated 02-05-16
- 12. SEPA Exemption dated 03-15-16
- 13. Community Meeting notes dated 01-13-16
- 14. Letter dated 12-10-15 to Rick Harris from Donna deBit
re: community meeting instructions
- 15. Letter dated 02-11-16 to Interested Parties from Donna DeBit
re: requesting comments
- 16. Letter dated 02-26-16 to Rick Harris from Donna deBit
re: notice of application/public hearing instructions
- A Exhibits received at hearing
 - A-1 Planning's PowerPoint presentation

FINDINGS AND CONCLUSIONS

To be approved, the proposed conditional use permit must comply with the criteria set forth in Spokane Municipal Code sections 17G.060.170 and 17C.320.080(F). The Hearing Examiner has reviewed the proposed conditional use permit and the evidence of record with regard to the application and makes the following findings and conclusions:

1. *The proposal is allowed under the provisions of the land use codes. See SMC 17G.060.170(C)(1).*

The project site is zoned Residential Single Family ("RSF"), a residential category. The uses allowed in the residential zones are shown on Table 17C.110-1. See SMC 17.110.110. Certain kinds of "institutional" uses are allowed in the RSF zone, including "community services." See Table 17C.110-1. "Community Services are uses of a public, nonprofit or charitable nature generally providing a local service to people of the community." See SMC 17C.190.420(A). A community service is allowed in the RSF zone, provided a conditional use permit is obtained. See Table 17C.110-1. In addition, expansions of a facility exceeding 1,500 square feet "require a conditional use permit and are processed as a Type III application." See SMC 17C.110.110(D).

The Hearing Examiner finds that the proposed garage is allowed as an expansion of an existing conditional use, provided a conditional use permit is obtained and the other development standards are met. Therefore, this criterion is satisfied.

2. *The proposal is consistent with the comprehensive plan designation and goals, objectives, and policies for the property. See SMC 17G.060.170(C)(2).*

In various ways, the Comprehensive Plan ("CP") generally recognizes the important role played by community centers. The Hearing Examiner agrees with the Staff that the proposal is specifically supported by Policy N 2.1, Mixed Use Neighborhood Centers. That policy supports the development of "...neighborhood infrastructure that enables citizens to live, work, shop, socialize and receive other essential services in their own neighborhood." See CP, Policy N 2.1, Chapter 11, p. 9. The proposal is also supported by Policy ED 5.3, which promotes educational opportunities, such as jobs training. See CP, Policy ED 5.3, Chapter 7, p. 18. The proposed addition to the West Central Community Center supports its mission to provide services to the neighborhood, and as such is consistent with the intent and purpose by the comprehensive plan. Therefore, this criterion is satisfied.

3. *The proposal meets the concurrency requirements of Chapter 17D.010SMC. See SMC 17G.060.170(C)(3).*

The decision criteria for Type III decisions (such as a conditional use permit) mandate that all proposals must satisfy the concurrency requirements under SMC 17D.010. See SMC 17G.060.170(C)(3). Accordingly, on February 11, 2016, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction. See Exhibit 15.

The city received minimal response to its request for comments. See e.g. Exhibits 3, 4A, & 4B. City staff noted that "...there were no departments or agencies that reported that concurrency could not be achieved." See Exhibit 1, p. 3. To the extent that there was a lack of substantive comments from departments and agencies with jurisdiction, the Hearing Examiner must conclude that concurrency standards are satisfied. See SMC 17D.010.020(B)(1). In addition, there was no testimony at the public hearing suggesting that the concurrency standards would not be satisfied.

The Hearing Examiner finds that the project satisfies the concurrency requirements of the municipal code. Therefore, this criterion for approval of the conditional use permit is met.

4. *If approval of a site plan is required, the property is suitable for the proposed use and site plan considering the physical characteristics of the property, including but not limited to size, shape, location, topography, soils, slope, drainage characteristics, the existence of ground or surface water and the existence of natural, historic or cultural features. See SMC 17G.060.170(C)(4).*

The Hearing Examiner finds that the property is suitable for the proposed use given its physical characteristics. The project involves a relatively small addition to an existing structure. The use is not changing, either in scope or intensity. The applicant will be required to satisfy all the applicable design requirements, although the preliminary design appeared to be appropriate, upon initial review. *Testimony of D. deBit.* Thus, there appears to be sufficient room for the proposed expansion, without deviating from the setback or other development standards. See *id.* There is no evidence in this record suggesting that the physical characteristics of the property make it unsuitable for the proposed garage. Further, there are no conditions that could undermine the suitability of the site. For example, there are no indications of surface water on the site. There is no reason to expect that groundwater will be impacted by this project. There are no known cultural or historic resources on this site. See Exhibit 1, p. 5.

The Hearing Examiner concludes that the property is suitable for the proposed use, given the conditions and characteristics of the site. As a result, this criterion is satisfied.

5. *The proposal will not have a significant adverse impact on the environment or the surrounding properties, and if necessary conditions can be placed on the proposal to avoid significant effect or interference with the use of neighboring property or the surrounding area, considering the design and intensity of the proposed use. See SMC 17G.060.170(C)(5).*

This project involves a relatively minor modification to an existing community center. There is no evidence that this project may give rise to significant environmental impacts. In addition, the city has determined that the project is categorically exempt from SEPA review. See SMC 17E.050.080; see also Exhibit 1, p. 6.

The project will result in the construction of a garage to store vehicles. This will help prevent theft and vandalism that has plagued the facility in the past. *Testimony of R. Harris.* This project will not result in a material change to the scope or intensity of the use. The West Central Community Center is an existing facility that has been in operation for many years. There is no reason to suspect that a garage addition will somehow create new or unique impacts on the neighborhood. The Hearing Examiner concludes that this project will not interfere with the use of neighboring property or the surrounding area. To the extent that there are any questions about the design of the project, those concerns will be addressed at the permitting stage. *Testimony of D. deBit.* In any event, the applicant will be required to satisfy the standards set forth in SMC 17C.110.500-575, which outline the design requirements for institutional uses in residential areas. See Exhibit 1, p. 6.

The Hearing Examiner concludes that the project will not have significant impacts on the environment, and therefore this criterion is satisfied.

6. *The overall residential appearance and function of the area will not be significantly lessened due to the construction of utilities and infrastructure. The project will not result in the construction of improvements that are disproportionate to the residential household uses in the surrounding area. See SMC 17C.320.080(F).*

The residential appearance and function of the area will not be negatively impacted by this project. The project will result in the construction of a 2,240 square foot garage, adjacent to the existing gym. The outward appearance of the facility will change in only minor respects. The scope and intensity of the use will be essentially the same. The project does not result in any use that is disproportionate to the surrounding residences. It is difficult to see how any such impacts could occur, given that this facility has been in operation in this location for many years. The Hearing Examiner agrees with the conclusion reached by Staff, i.e. this project "...will not adversely affect the existing residential neighborhood..." See Exhibit 1, p. 3. The Hearing Examiner concludes that this criterion for approval is met.

7. *The proposal will be compatible with the adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks and landscaping. The proposal will mitigate the differences in appearance or scale through such means as setbacks, screening, landscaping and other design features. See SMC 17C.320.080(F)(2).*

As noted above, the proposal is to add a 2,240 square foot garage to an existing facility. There is no evidence that an addition of this size will have material impacts on the neighborhood. The garage has been designed to fit the site, while still meeting the setback requirements. *Testimony of D. deBit*. The garage has also been designed to fit the current architecture of the building. See Exhibit 1, p. 3. To the extent there are any concerns about the scale, appearance, or design of the project, those matters will be addressed at the permitting stage. Thus, the applicant will be required to satisfy the development standards under SMC 17C.110, including the institutional design standards. See Exhibit 1, p. 3 & 6. In the Hearing Examiner's view, the modified facility will have no more impact on the neighborhood than the existing facility. The Hearing Examiner concludes that this criterion for approval is satisfied.

8. *The proposal will not have significant adverse impacts on the livability of nearby residential lands due to noise, glare, late-night operations, odors and litter, or privacy and safety issues. See SMC 17C.320.080(F)(3).*

The proposal will not affect the livability of the surrounding residences, as has already been discussed. The project does not include elements that may cause unanticipated or undue light, glare, odor, or litter, or give rise to diminished privacy or safety. No late-night operations are planned at the facility. The hours of operation will remain the same. See Exhibit 1, p. 4. As the Staff concluded, the addition of the garage "...will not create any impacts to the neighborhood." See Exhibit 1, p. 4. The Hearing Examiner concludes that this criterion for approval has been satisfied.

9. *The proposed use is in conformance with the street designations of the transportation element of the comprehensive plan. The transportation system is capable of supporting the proposed use in addition to existing uses in the area, upon consideration of the evaluation factors provided in the municipal code. See SMC 17C.320.080(F)(4).*

This project does not create any new or unique burdens on the transportation system or on other public facilities. As stated above, no department reported that public facilities were not adequate to support the project. See Paragraph 3 above. Further, the Staff specifically noted: "The site will continue to have access to all City of Spokane public services, and will not require any additions to be made in order to fully accommodate the proposed expansion." See Exhibit 1, p. 4. Finally, and as noted previously, the garage addition does not change the scope or intensity of the underlying use. As such, there is no concern about impacts to the transportation system. The Hearing Examiner concludes that this criterion is satisfied.

DECISION

Based on the findings and conclusions above, it is the decision of the Hearing Examiner to approve the proposed conditional use permit subject to the following conditions:

1. Approval is for a conditional use permit to allow the West Central Community Center to construct a garage at its facility located at 1603 N. Belt Street. The garage will be constructed substantially as set forth in the plans and application on file in Planning and Development. If changes are sought to the plans or application, they shall be submitted to Planning Services for review and approval. If Planning Services finds that the changes are substantial, then they shall be forwarded to the Hearing Examiner for review and approval.

2. The project will be developed in substantial conformance with SMC 17C.110.500, Land Use Standards, Residential Zones, Institutional Design Standards, to maintain compatibility with and limit the negative impacts on surrounding residential areas.

3. If any artifacts or human remains are found upon excavation, the Spokane Tribe of Indians and the City of Spokane Planning & Development Services should be immediately notified and the work in the immediate area cease. Pursuant to RCW 27.53.060 it is unlawful to destroy any historic or prehistoric archaeological resources. RCW 27.44 and RCW 27.53.060 require that a person obtain a permit from the Washington State Department of Archaeology & Historic Preservation before excavating, removing or altering Native American human remains or archaeological resources in Washington.

4. This approval does not waive the applicant's obligation to comply with all of the requirements of the Spokane Municipal Code, including the International Codes, as well as requirements of City Departments and outside agencies with jurisdiction over land development.

5. This project must adhere to any additional performance and development standards documented in comments or required by the City of Spokane, the County of Spokane, the State of Washington, and any federal agency.

6. The applicant shall comply with the requirements of the Spokane Regional Clean Air Agency prior to the construction, installation or establishment of an air pollution source. A Notice of Intent must be submitted to the Spokane Regional Clean Air Agency prior to any demolition project or asbestos project.

7. Spokane Municipal Code section 17G.060.240 regulates the expiration of this approval, and Table 17G.060-3 sets forth the time frame for the expiration of all approvals.

8. Prior to the issuance of any building or occupancy permits, the applicant shall submit evidence to this file that the property owner has signed and caused the following statement to be recorded with the Spokane County Auditor's Office.

COVENANT

Development of this property is subject to certain conditions on file with the City of Spokane Planning Department and the Office of the City of Spokane Hearing Examiner. The property may not be developed except in accordance with these conditions. A copy of these conditions is attached to this Covenant.

This statement shall be identified as a Covenant. The owner's signature shall be notarized.

9. This approval is subject to the above-stated conditions. By accepting this approval the applicant acknowledges that these conditions are reasonable and agrees to comply with them. The filing of the above required covenant constitutes the applicant's written agreement to comply with all conditions of approval. The property may not be developed except in accordance with these conditions and failure to comply with them may result in the revocation of this approval.

DATED this 21st day of March 2016.



Brian T. McGinn
City of Spokane Hearing Examiner

NOTICE OF RIGHT TO APPEAL

Appeals of decisions by the Hearing Examiner are governed by Spokane Municipal Code 17G.060.210 and 17G.050.

Decisions by the Hearing Examiner regarding conditional use permits are final. They may be appealed by any party of record by filing a Land Use Petition with the Superior Court of Spokane County. **THE LAND USE PETITION MUST BE FILED AND THE CITY OF SPOKANE MUST BE SERVED WITHIN TWENTY-ONE (21) CALENDAR DAYS OF THE DATE OF THE DECISION SET OUT ABOVE.** The date of the decision is the 21st day of March 2016. **THE DATE OF THE LAST DAY TO APPEAL IS THE 11th DAY OF APRIL 2016 AT 5:00 P.M.**

In addition to paying any Court costs to appeal the decision, the ordinance requires payment of a transcript fee to the City of Spokane to cover the costs of preparing a verbatim transcript and otherwise preparing a full record for the Court.

Pursuant to RCW 36.70B.130, affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.